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COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

OVERSIGHT INITIATIVE REPORT
FROM THE
SUBCOMMITTEE ON OVERSIGHT

ABUSE AND MISMANAGEMENT OF INSPECTOR OVERTIME PAY BY THE U.S. CUSTOMS SERVICE

INCLUDING FINDINGS AND RECOMMENDATIONS OF THE SUBCOMMITTEE

Report No. 3

JUNE 27, 1991

Prepared for the use of the Committee on Ways and Means by its staff

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LETTER OF TRANSMITTAL

COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, D.C., June 27, 1991.

The Honorable DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN ROSTENKOWSKI: We are submitting to the Committee on Ways and Means the report of the Subcommittee on Oversight on abuse and mismanagement of inspector overtime pay by the U.S. Customs Service. This report was approved by the Subcommittee on a unanimous, bipartisan basis on June 26, 1991, and is the result of the Subcommittee's investigation and June 13, 1991, hearing on the subject. We respectfully request that the Committee on Ways and Means review the Subcommittee's report and take action on the Subcomittee's recommendations in a timely manner. The attached report provides a brief background on the issue reviewed, the scope of the Subcommittee's investigation and hearing, and the Subcommittee's findings and recommendations for administrative and legislative change.

Historically, international travelers and merchandise entering the United States have been subject to U.S. Customs Service (Customs) inspection upon arrival. Because goods and passengers arrive outside the regular workday, Customs' inspectors often work overtime. The current overtime provisions for Customs inspectors are essentially those established by the Act of February 13, 1911, as amended. Overtime compensation paid under these provisions is commonly referred to as "1911 Act" overtime.

Under the 1911 Act, much inspectional overtime pay is not based on actual hours worked. Work performed on Sunday, no matter how little, is compensated at a rate equal to two days of regular pay. On holidays, the compensation is the total of two days of pay, plus the regular hourly rate for the period of time worked on the holiday. No minimum period of work is required to qualify for the premium pay. Thus, inspectors can work as little as one minute and receive two days of pay for Sunday work, and receive two days plus the regular hourly rate for holiday work. For overtime during the week, generally before 8:00 a.m. or after 5:00 p.m., the minimum compensation is four to twelve hours of pay, depending on whether the inspector works late, comes in early, or is called back to work. As the Subcommittee's report details, 1911 Act overtime pay has been abused and mismanaged, and needs to be addressed through legislative and administrative change.

In October 1989, Subcommittee on Trade Chairman Sam M. Gibbons asked the General Accounting Office (GAO) to undertake a

review of Customs' overtime practices to determine if Customs was handling inspectional overtime in an efficient and effective manner. In addition, the Subcommittee on Oversight was asked to monitor GAO's investigation and to follow up as appropriate.

GAO released the results of its 18-month investigation on Customs' overtime abuse to the Subcommittees on Oversight and Trade on June 13, 1991. GAO reported not only a recent dramatic increase in overtime pay by Customs, but also gross abuse by management, improper payments, and possible fraud. GAO also found that Customs has not fully complied with provisions in the regulations or its own procedures governing the use and payment of overtime for inspectional services. GAO described instances where Customs' inspectors were scheduling their own overtime work and self-certifying that they worked the amounts claimed. There are also numerous examples of managers scheduling overtime for short periods of time that resulted in large overtime payments, and of inspectors being paid overtime twice for the same assignments.

GAO further found that the 1911 Act, and regulations thereunder, resulted in overtime being paid for time not actually worked, or what GAO called "phantom hours." Although one inspector only worked two overtime assignments in fiscal year 1989, he received overtime pay of $1,188.60. The average length of his two overtime assignments for the year was 14 minutes. GAO found examples of inspectors working as little as 19 minutes on a Sunday or holiday and receiving two days of pay.

The work week established under the 1911 Act, 8:00 a.m. to 5:00 p.m., Monday–Saturday, hinders the efficient use of shifts and staggered hours and the efficient management of overtime costs. For example, placing regular workshifts on Sundays to meet the workload would not save overtime expense, since any Sunday work under the 1911 Act qualifies for two days of pay. In the absence of legislative change, Customs will not be able to implement management reforms that will produce significant cost savings.

Further, Customs' inspector overtime is being paid under a system established by legislation enacted 80 years ago. A different set of circumstances applied in 1911 from those that exist today. In 1911, it was difficult to predict the need and arrange for overtime because of the relative undeveloped state of transportation and communication systems. Airports did not exist, and telecommunication systems were in their infancy. In today's environment, inspectors generally know in advance if they will be required to work overtime. Communication systems are advanced, and most cargo and passengers have scheduled arrival times. Sundays and holidays have become regular business days for the international travel industry, and Sunday and holiday work is not uncommon for other Federal employees, such as park rangers, police, hospital workers, and employees at Federal museums.

Finally, the historical justification for the 1911 Act was that individual importers and shippers reimbursed Customs directly for inspectional overtime services on an "as needed" basis, and therefore, the Federal Government did not incur any expense. However, this method of covering the cost of overtime was changed by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). User fees were imposed by COBRA on arriving passengers and con-

veyances, and are deposited into a fund from which inspectional overtime is paid. According to Customs' own task force, this user fee fund is viewed by Customs' managers as "free money" from a "bottomless pit." The cost of Customs' overtime has grown from $57 million in 1985 to $103 million in 1990.

To improve Customs' administration of inspectional overtime and ensure that resources are effectively and efficiently managed to provide public services to travelers and the trade community, the Subcommittee on Oversight recommends that:

First, the 1911 Act be modified to mirror the Federal Employees Pay Act (FEPA) rules which generally apply to Federal Government workers. Conforming Customs' inspectional overtime with the government-wide overtime standards will: (1) ensure that hours paid bear a more direct relationship to hours worked; (2) provide for more reasonable overtime rates; (3) provide pay rate differentials for Sunday and holiday work performed as part of an inspector's regular work week schedule; and, (4) provide for the payment of overtime benefits only after 40 hours of work is completed;

Second, changes to the 1911 Act be phased-in over a three-year period;

Third, the Commissioner of Customs be required to provide a report to the Committee on Ways and Means, by September 1, 1991, containing analysis and recommendations on the amount of increase, if any, that should be made to Customs inspectors' base pay upon implementation of FEPA rules to Customs' overtime pay, and on the adequacy of present inspectors' pension benefits;

Fourth, the definition of "inspectional services" be clarified to limit 1911 Act overtime benefits to employees performing actual inspectional activities;

Fifth, the COBRA user fee be modified to reinstate Congressional oversight of Customs' use of overtime funds;

Sixth, the Office of Management and Budget be given oversight authority for 1911 Act overtime funds;

Seventh, GAO be required to report on costs of covering night and weekend workload with additional inspectors, rather than by covering such workload by use of inspector overtime; and

Eighth, the Secretary of the Treasury be required to direct the Commissioner of Customs to promptly take action to improve internal controls over the administration of overtime, and to report to the Committee on Ways and Means, by December 31, 1991, on actions taken.

The Subcommittee believes that the adoption of these recommendations is essential to improving the internal controls over the administration of Customs' overtime and ensuring that Federal Government resources are properly used for the benefit of the trade and travel communities.

Sincerely,

RICHARD T. SCHULZE,
Ranking Minority Member.

J. J. PICKLE,
Chairman.

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REPORT OF THE SUBCOMMITTEE ON OVERSIGHT ON ABUSE AND MISMANAGEMENT OF INSPECTOR OVERTIME PAY BY THE U.S. CUSTOMS SERVICE

BACKGROUND

U.S. Customs Service (Customs) inspectors have traditionally been paid for their overtime duty under laws which do not apply to other Federal employees. These separate Customs' overtime pay laws date back to 1799, with the current overtime benefits established by the "Act of February 13, 1911," as amended, commonly referred to as the "1911 Act." (See Attachment #1.) Although the provisions have been amended and expanded over the years, the rates established 80 years ago have remained essentially unchanged.

According to legislative history, Congress authorized 1911 Act overtime pay because (1) the private sector directly reimbursed Customs for extra hours of service performed; (2) the nature of the work was different from that of other government workers in that the work was done at night, on Sundays, and on holidays; (3) the work was unusually burdensome and dangerous; and (4) competent and regularly available inspectors were needed to facilitate commerce and travel. During hearings on the 1911 Act, Congressman J. Hampton Moore of Pennsylvania stated that "in order to facilitate commerce and to give convenience to the shippers, we have proposed to accommodate them merely in the matter of this night service at their own expense."

In 1911, when the current rate structure was established, most international commerce still arrived by vessel from Europe. At that time, vessels communicated by sending Morse code by light or by semaphore signals using flags. No one could predict, with any certainty, when these vessels were going to arrive at their U.S. destinations. Customs' inspectors rode to work on horses and actually worked on the docks, boarded vessels, and examined every shipment of cargo as it was unloaded.

In today's inspectional environment, inspectors generally know in advance if they will be required to work overtime. Communication systems are advanced, and most cargo has scheduled arrival times. The number of ships, planes, cars, buses, trains, and trucks that will arrive at given times on given days, as well as the number of passengers and the volume of cargo they will be carrying, is predictable for the most part. Customs' inspectors no longer work on the docks, they rarely board ships, and they only examine a small percentage of the passengers and cargo arriving in the United States. Much of the work is indoors, so that weather is less of a factor, and airport work, which did not exist in 1911, generally involves a more highly managed and cleaner working environment than existed at ports in 1911. According to the U.S. General Ac-

counting Office (GAO), more than 45 percent of the Sunday and holiday overtime worked in fiscal year 1989 was done at airports. Moreover, unlike in 1911 when most other Federal employees worked "nine-to-five," Monday through Friday, it is not at all uncommon today for Federal employees such as park rangers, police, hospital workers, and employees at Federal museums, to work nights or on Sundays and holidays.

A major change to the 1911 Act came with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), which imposed a user fee on international airline passengers and conveyances. Under COBRA, these user fee collections go into a Department of the Treasury account from which Customs' overtime and other "inspectional activities" are reimbursed. These overtime fees are available under a permanent indefinite appropriation and, thus, are not subject to regular review by the Congress. These user fees are not based on the amount of overtime services provided, but rather spread the cost of Customs' overtime services between those who require and use Customs' overtime services and those who do not.

The Customs and Trade Act of 1990 (Trade Act) provided that excess collections in the user fee account could be used by Customs to hire full and part-time inspectors, buy equipment, or satisfy other direct expenses necessary to provide services directly to the payers of the fee. The provision was enacted to address the ongoing problem where Customs has delayed or not approved landing rights for new or expanded international flights already approved by the Departments of Transportation and State. The additional funds were authorized so that the lack of Customs' staffing resources was no longer a factor in approving new or expanding international service. The Trade Act also set up a $30 million reserve fund to maintain staffing levels in the event Customs' collections are reduced.

In the Federal Employees Pay Act of 1945 (FEPA), Congress enacted a comprehensive overtime law which covers most Federal employees. The major distinction between the overtime compensation provisions applied to most Federal employees under the FEPA, and Customs' inspectors under the 1911 Act, is how work increments are defined and, thus, the amounts of overtime paid. FEPA workers are usually paid for work actually done, in 15-minute increments. For example, one hour and 15 minutes of FEPA overtime work warrants one hour and 15 minutes of pay at the applicable rate. The overtime rate is generally one and one-half times the regular hourly-pay rate.

In contrast, the 1911 Act compensates inspectors at a rate far in excess of what most Federal workers receive. The 1911 Act pays inspectors for minimum periods of time. For example, one hour and 15 minutes of overtime (Monday–Saturday) warrants two hours of compensation at the appropriate overtime rate. The overtime rate is generally four hours of regular pay for each two-hour period, provided at least one hour is actually worked. More generous overtime benefits are provided under the 1911 Act for work performed on Sundays and holidays. In 1979, Congress capped individual overtime at $20,000, and in 1983, at $25,000 per year. (See Attachment #2.)

In addition, the 1911 Act defines the regular work week as 8:00 a.m. to 5:00 p.m., Monday through Saturday. This statutory provision requires premium pay outside those hours, even if it is regularly scheduled. Customs' inspectors also are not required to work a minimum of 40 hours before overtime is paid.

For purposes of comparison, Customs' special agents who work overtime in the same, and often even more dangerous environments, are compensated much less generously than their inspector counterparts. Customs' agents are expected to actually work a minimum of 40 hours a month of overtime, for which they are compensated 25 percent of their monthly base salary. Any overtime worked in addition to the 40 hours is not compensated. The same is true with Drug Enforcement Agency agents, park rangers, Federal Bureau of Investigation agents, and Internal Revenue Service auditors. (See Attachment #3.)

There are numerous circumstances in which a Customs' inspector can receive overtime pay under the "1911" law. (Six examples are provided in Attachment #4.)

- The most generous provisions of the "1911" law are depicted in Chart 1. For any work on Sundays and holidays, an inspector receives 16 hours of pay. This is the provision of law that enables an inspector to work 19 minutes, or for that matter even less, and receive 16 hours of pay.
- Chart 2 shows what happens, by operation of law, when an inspector starts working overtime between 9:00 p.m. and 6:00 a.m. In the example, the inspector starts working overtime at 11:00 p.m. and stops at 12:00 midnight. He gets credit for working that one hour, plus an additional four hours, which in turn earns him credit for three two-hour increments, all compensated at double time, for a total of twelve hours of pay for the one hour actually worked.
- Chart 3 is similar to the second, except that the inspector actually works three hours, which in the example happens to be the three hours right before the normal work day. In this case, the inspector earns another two-hour increment at double time, so he would get sixteen hours of pay for three hours of work.
- Chart 4 describes how an inspector who works one hour or more, during the time period between 5:00 p.m. and 9:00 p.m., would receive credit for two hours of work and be compensated at double time, for a total of four hours of pay for the one hour actually worked.
- Chart 5 shows that if an inspector works any amount of time between 6:00 a.m. and 8:00 a.m., he will get paid for two hours of work at double time, for a total of four hours of pay.
- Chart 6 shows that if an inspector is called back to work before 9:00 p.m., he will be compensated as if he started his overtime assignment at 5:00 p.m., at double time. In other words, if he started working overtime at 8:00 p.m. and finished at 9:00 p.m., he would receive credit for four hours of work at double time, or eight hours of pay for the one hour actually worked.

SUBCOMMITTEE ON OVERSIGHT INVESTIGATION AND HEARING

The use of overtime by Customs has increased substantially over the last decade. In recent years, overtime pay to Customs' inspectors increased from $56.8 million in fiscal year 1985 to $102.8 million in fiscal year 1990, an increase of 81 percent in actual dollars (35 percent in constant dollars). In spite of the amount of overtime used, there continues to be a large number of complaints about the lack of services—complaints such as airline flights being diverted to out-of-the-way airports for clearance and trucks required to drive hundreds of miles out of the way to cross the northern border at a "commercial" port of entry.

These complaints were first raised as part of the Subcommittee on Oversight's recent investigation into Customs' commercial operations conducted from 1987 to 1989. As part of the Subcommittee's February 8, 1990, report on "Abuses and Mismanagement in U.S. Customs Service Commercial Operations," the Subcommittee recommended that Customs "conduct an evaluation of its workforce and workload to better allocate resources" to meet its obligations to the trade and travel communities. The Subcommittee report also recommended that Customs consider assigning inspectors to regular workshifts to cover off-hour workload, rather than rely almost exclusively on overtime.

Congressman Donald J. Pease also raised concerns about the increasing amount of overtime worked by Customs' inspectors during recent Customs' budget reauthorization hearings. On October 20, 1989, the Subcommittee on Trade Chairman Sam Gibbons requested that GAO conduct a thorough audit and review of Customs' use of inspectional overtime at ports of entry. The primary purpose of the GAO investigation was to determine whether Customs is managing overtime for inspectional services in the most efficient manner. GAO examined Customs' overtime policies, procedures, and national data base on the use and cost of overtime. GAO also visited five ports of various sizes, types, and geographic locations, and met with Customs' management officials, employee representatives, and members of the importing community. The Subcommittee on Oversight was asked to monitor GAO's investigation and follow up as appropriate.

On June 13, 1991, the Subcommittee on Oversight held a hearing to review GAO's report and receive testimony from the Commissioner of Customs and the National Treasury Employees Union. GAO confirmed not only a dramatic increase in overtime use by Customs, but also found gross mismanagement and abuse, improper payments, and possible fraud. There are also strong indications of improper or inefficient utilization of resources. These findings were based on GAO's examination of Customs' national data base for fiscal years 1985 through 1990 and 671,966 overtime assignments worked during fiscal year 1989.

GAO found instances of missing certifications by supervisors that the overtime was worked; inspectors scheduling their own overtime work and self-certifying that they worked the amounts claimed, a practice that violates basic internal control requirements to discourage abuse and fraudulent activity; work ticket preparation not in accordance with Customs' and basic internal control standards;

incorrect start and stop times being used for overtime assignments; and duplicate claims and payments for overtime to inspectors.

GAO found 23 examples where inspectors were paid twice for the same assignment and, at least one example, where an inspector was paid overtime twice for work done during regular work hours. Not only did this inspector receive two overtime payments for the same period, he also drew his regular pay. (See Attachment #5.) When these cases were referred by GAO to Customs' Office of Internal Affairs, 276 additional cases of apparent duplicate payments were discovered. It was also learned that the centralized computer system operated by Customs' National Finance Center (that monitors overtime salaries) does not include sufficient edit checks, to preclude, for example, certain types of duplicate payments. GAO found 2,587 overtime assignments totaling $422,848, in which the completion date on the work ticket did not match the special Sunday or holiday designation. These mistakes are possible because Customs' computer system does not cross-check the date and completion-time entries.

GAO also found that Customs has not fully complied with provisions in the regulations or its own procedures governing the use and payment of overtime for inspectional services, raising serious questions about the appropriateness of some overtime payments. GAO identified several instances where 1911 Act overtime rates were inappropriately used for noninspectional activities. For example, GAO documented cases where secretaries were paid at 1911 Act rates on Sundays and holidays, to enter work tickets in the overtime data base, and aides were compensated at the 1911 Act rate for entering data into Customs' cargo selectivity computer system.

GAO further found that the 1911 Act, and regulations thereunder, result in overtime being paid for time not actually worked. Attached to this report is a chart comparing the time worked by 16 Customs' inspectors to the compensation they received in fiscal year 1989. (See Attachment #6.) For example, GAO found one inspector who worked a total of two hours and 20 minutes of overtime in fiscal year 1989. The average length of his overtime assignments for the year was 14 minutes and, yet, his overtime pay of $1,188.60 was based on 90 hours. (See Attachment #7.) Another inspector, whose regular pay was $13.33 per hour, worked six overtime assignments over a two-week period and received more than $900 for three hours and 45 minutes of actual work. (See Attachment #8.) Another inspector received $218 for 25 minutes of work. (See Attachment #9.) Seven inspectors worked on an assignment which began on Saturday, and continued into Sunday for 20 to 30 minutes. These inspectors worked a total of 2 hours and 45 minutes and received $1,368, or an average of $497 per hour. (See Attachment #10.) GAO also found instances of inspectors working as little as 19 minutes and receiving two days of pay for a Sunday or holiday. (See Attachment #11.)

In a full year, inspectors can earn impressive amounts of overtime pay for the amount of actual overtime worked. More than 22 percent of those inspectors working 1911 Act overtime during fiscal year 1989, earned more than $20,000. (See Attachment #12.) For example, one inspector worked 252 overtime assignments in fiscal

year 1989. The average assignment length was 36 minutes. The effective hourly rate paid was $138.00, as compared to the regular hourly rate of $11.71. The inspector was paid a total of $20,921 in overtime for the year. Another inspector worked 228 overtime assignments and was paid $24,379 in overtime. The average assignment length was 35 minutes.

GAO's analysis of the Customs' national overtime data base and five port visits revealed that some port officials have adopted inefficient overtime policies. GAO found that port officials were (1) using the annual $25,000 cap to manage overtime; (2) not consistently adjusting shifts or using staggered work hours in a cost-efficient manner; (3) using callbacks inefficiently; (4) overstaffing on Sundays and holidays (when overtime pay rates are most generous); and (5) not using the correct rates for assignments of less than one hour when the assignment continued from the regular workday. In addition, GAO found Customs' managers regularly extend night assignments into a Sunday or holiday, triggering the 1911 Act's Sunday- and holiday-pay provisions.

GAO also indicated that the $25,000 overtime pay cap does not contribute to the efficient management of the 1911 Act overtime pay. In ports where a significant number of inspectors are nearing the cap, service is curtailed or inspectors are brought in from other ports. According to Customs' officials, overtime compensation also discourages inspectors from moving into management positions because managers are not entitled to overtime, and their pay could be less than that of the inspectors they are supervising.

GAO found that the number of inspectors assigned on Sundays and holidays to passenger and cargo locations appeared to be excessive. For example, at one international airport there is an established shift on Sunday from 12:00 midnight to 8:00 a.m. During the week, there are 15 inspectors assigned to this shift, while on Sunday there are 50 inspectors. The workload for both periods of time is basically the same. At another international airport, management assigns 45–50 inspectors daily. However, on Sunday, approximately 105 inspectors are assigned. At a third airport, 25 inspectors processed 1,096 passengers on 21 flights during a Monday holiday. On the following Monday, which was not a holiday, 17 inspectors processed 1,127 passengers on 22 flights.

In reaction to the initiation of GAO's investigation last year, Customs conducted their own study. The Commissioner's "Blue Ribbon Panel" identified many of the same problems discovered by GAO. The Commissioner's panel found that Customs fails to align its workforce with workload patterns; over-staffs on Sundays and holidays; and improperly utilizes its resources, resulting in "unjustifiable practices and potential for abuse." The Customs' overtime task force report said that some Customs' ports are not making use of shifts and staggered work hours in a cost-efficient manner. The report indicated that Customs could save up to $10 million a year if it could eliminate 1911 Act overtime pay for work done within one hour before or after the workday, and up to $22 million if it could eliminate work completed within two hours before or after the regular workday. GAO report supports Customs' conclusions and notes that 33 percent of all weekday overtime as-

signments during 1989 fell into the time period of two hours before or after the regular workday.

Unlike other budget categories, the Customs' field managers are not held accountable for remaining within an established 1911 Act overtime budget threshold. Therefore, the user fee account can be used freely, so long as the $25,000 individual overtime cap is not exceeded. According to the Commissioner's own panel, this lack of, accountability has engendered the firm belief among Customs managers that 1911 Act overtime funds are "free money" and a "bottomless pit."

As a result of the Commissioner's study, Customs recognizes that corrective actions are required in the management of its overtime. For example, Customs proposes to make overtime management a "critical element" in evaluating a manager's job performance. They also plan to better measure workload and to consider shift changes to avoid overtime use. While Customs does not recommend changing either the law or the regulations, the Commissioner did have this to say in her June 13, 1991, testimony: "This law that we are addressing today, the 1911 overtime law, that isn't our [Customs] law. That is the Congress' law that they passed in 1911."

The Subcommittee's investigation has revealed that this system of overtime pay, unique to Customs' inspectors, has been abused and mismanaged and can only be resolved through legislative and administrative change. Even if Customs were successful in implementing their overtime reform initiatives, the minimum hours and the multiples required under the 1911 Act would still apply. In addition, local managers would still have the discretion to assign 1911 Act "overtime" instead of changing work hours and, when they miscalculate the workload at night or on Sundays and holidays, the inspectors assigned to work those times will still get the minimum number of hours and the multiples provided by the 1911 Act—whether they need to actually work or not. Moreover, as the Subcommittee found in its February 8, 1990, report on Customs' abuses and mismanagement, it is unrealistic to expect that Customs' headquarters and regional management will be able to fully implement their proposed overtime reform initiatives in the field because of a lack of centralized control over the field offices.

Subcommittee Findings and Recommendations

Following the Subcommittee's investigation and June 13, 1991, hearing, the Subcommittee began to consider various options for improving the method by which Customs compensates its inspectors for overtime. A consensus was reached that the hours paid for overtime should bear a more direct relation to the hours worked. Further, Customs' management must immediately take more aggressive action to address the internal control weaknesses in the current overtime payment system, and make more efficient use of Customs' workforce by aligning shifts more closely with the workload.

To prevent further abuse of the overtime system and to improve Customs' administration of inspectional overtime and ensure that resources are effectively and efficiently managed to provide public

services to travelers and the trade community, the Subcommittee on Oversight makes the following findings and recommendations:

First, the Subcommittee agrees with the concept that those inspectors who work outside normal duty hours, a 40-hour work week, or on a Sunday or holiday, should receive extra compensation. However, the Subcommittee believes the rationale underlying the 1911 Act provisions is no longer relevant, that the special payments are overly generous and far in excess of that which other Federal employees receive, and that a compelling case exists for Congress to modify the basis for computing premium pay for Customs' inspectors. The generous pay provisions of the law governing Sundays and holidays hinder the ability of Customs' management to establish shifts and staggered work hours, so that more of the workload can be covered by regular work time rather than overtime.

The Subcommittee recommends that the 1911 Act be modified to mirror the Federal Employees Pay Act (FEPA) rules which generally apply to most Federal Government workers. Conforming Customs' inspectional overtime with the government-wide overtime standards will: (1) ensure that hours paid bear a more direct relationship to hours worked; (2) provide for more reasonable overtime rates; (3) provide a pay-rate differential for Sunday and holiday work, performed as part of an inspector's regular workweek schedule; and (4) provide for the payment of overtime benefits only after 40 hours of work is completed.

Second, the Subcommittee finds that Customs inspectors' overtime is being abused because management considers, and inspectors rely on, overtime pay as an entitlement or supplement to their base pay. The Subcommittee recognizes that there are legitimate concerns regarding the overall compensation package for Customs' inspectors and that changes to 1911 Act overtime may present temporary financial hardships. Accordingly, the Subcommittee recommends phasing in the modifications to the 1911 Act over a three-year period.

Third, the Subcommittee recognizes that 1911 Act overtime compensation is used to recruit, retain, and compensate inspectors. However, the question of providing a fair compensation package to Customs' inspectors is important and needs to be addressed in the context of all other Federal employees. The Subcommittee recommends that the Commissioner of Customs be required to provide a report to the Committee on Ways and Means, by September 1, 1991, containing an analysis and recommendations on the amount of increase, if any, that should be made to the base pay of Customs' inspectors upon implementation of FEPA rules to Customs' overtime pay, and on the adequacy of present inspector's pension benefits. These issues should be raised by the Commissioner of Customs with the Office of Personnel Management.

Fourth, over the past several years, Customs has broadly defined "inspectional activities" to include activities such as clerical or secretarial work and enforcement functions. The Subcommittee recommends that the definition of "inspectional services" be clarified

to limit 1911 Act overtime benefits to employees performing actual "inspectional" activities.

Fifth, Customs' inspectors are compensated from funds collected under a special user fee established by COBRA that are not appropriated annually by the Congress. Customs is free to draw from the user fee account without any Congressional oversight. The Subcommittee recommends amending the COBRA user fee to reinstate Congressional oversight of overtime funds through the Subcommittee on Trade's annual authorization process.

Sixth, the Office of Management and Budget (OMB) currently does not have any control over Customs' withdrawals from the COBRA account. The Subcommittee recommends re-establishing OMB oversight authority for 1911 Act overtime pay, making Customs account for their expenditures of COBRA funds.

Seventh, the Commissioner of Customs' task force found that Customs fails to align its workforce with workload patterns; overstaffs on Sundays and holidays; and, improperly utilizes its resources, resulting in "unjustifiable practices and potential for abuse." The Subcommittee recommends that GAO be required to report on the costs of covering night and weekend workload with additional inspectors, rather than by covering such workload by use of inspector overtime.

Eighth, management is inherently responsible for the efficient use of its workforce. With recent changes in the law, Customs now has the authority to use excess COBRA funds to hire additional inspectors or purchase equipment to enhance service at international airports. GAO identified several weaknesses in Customs' internal controls and scheduling practices that have driven up overtime costs and noted that Customs has paid little attention to opportunities to avoid overtime. The Subcomittee recommends that the Secretary of the Treasury be required to direct the Commissioner of Customs to promptly take action to improve internal controls over the administration of overtime, and to report to the Committee on Ways and Means by December 31, 1991, on the actions taken.

ATTACHMENT #1

§267. Compensation for overtime services; fixing working hours

The Secretary of the Treasury shall fix a reasonable rate of extra compensation for overtime services of customs officers and employees who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform services in connection with the lading or unlading of cargo, or the lading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unlading, receiving, or examination of passengers' baggage, such rates to be fixed on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one–half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian), and two additional days' pay for Sunday or holiday duty. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance whenever such special license or permit for immediate lading or unlading or for lading or unlading at night or on Sundays or holidays shall be granted to the appropriate customs officer, who shall pay the same to the several customs officers and employees entitled thereto according to the rates fixed therefor by the Secretary of the Treasury. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual lading, unlading, receiving, delivery, or examination takes place or not. In those ports where customary working hours are other than those hereinabove mentioned, the appropriate customs officer is vested with authority to regulate the hours of customs employees so as to agree with prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for customs employees or the overtime pay herein fixed.

ATTACHMENT #2

Examples of 1911 Act Pay Compared to FEPA Pay

Under FEPA, overtime rates are expressed as multiples of actual amounts of overtime worked. FEPA overtime is paid at 1-1/2 times the employee's regular rate of pay up to the rate for GS-10, Step 1. Work on a Sunday or holiday is paid at the same rate. FEPA also provides for a night differential of 10 percent for night work and a Sunday differential of 25 percent when the employee's regular work schedule covers a Sunday. Employees who work on holidays are entitled to twice the regular rate of pay for up to 8 hours of holiday work. The table below shows how Customs' overtime pay rates compare to FEPA rates.

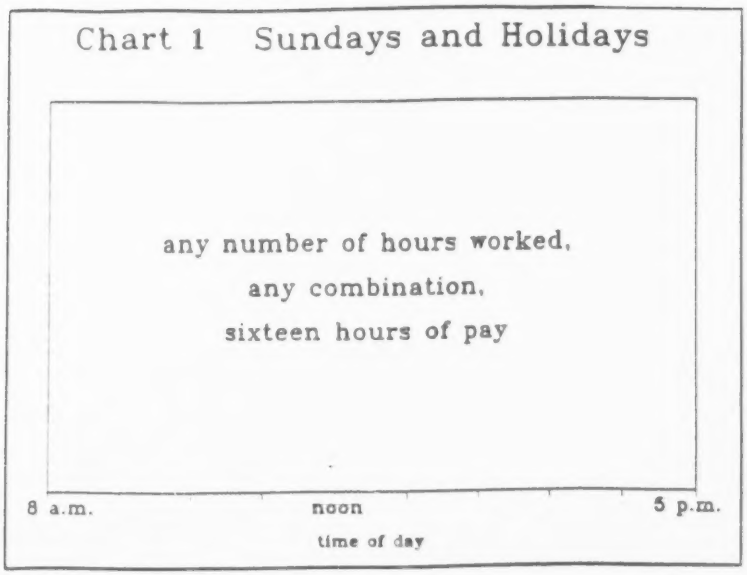
Overtime type	Regular pay per hour	FEPA rate[a]	Minutes worked	1911 overtime pay	FEPA overtime pay[b]
Sunday	$15.67	$18.87	19	$250.72	$37.74
Sunday	10.98	16.47	19	175.68	32.94
Sunday	12.44	18.66	20	199.04	37.32
Sunday	21.02	18.87	45	336.32	37.74
Callback	16.37	18.87	30	131.04	37.74
Callback	13.33	18.87	20	106.64	37.74
Callback	14.47	18.87	15	115.76	37.74
Callback	13.33	18.87	20	159.96	37.74
Callback	12.95	18.87	20	155.40	37.74

[a]The FEPA rate is one and one-half times the base rate of pay, not to exceed the rate of GS-10 step 1 ($18.87/hour in this case).

[b]FEPA overtime is shown at the FEPA callback rate, which is the most expensive premium pay provision under FEPA. It guarantees a minimum of 2 hours pay for unscheduled overtime. All assignments would have been paid at this rate if paid under FEPA.

Source: GAO analysis of Customs data.

ATTACHMENT #4



Sundays/Holidays

An inspector working Sundays and holidays is compensated at twice the gross daily rate received for eight hours of regular service. As Chart 6 shows, inspectors working on Sundays or holidays are paid for sixteen hours of work. This rate is paid from the start of the first overtime assignment regardless of the time served within the eight hours, and regardless of whether it is served continuously or in broken periods, or whether it covers one or more inspection assignments.

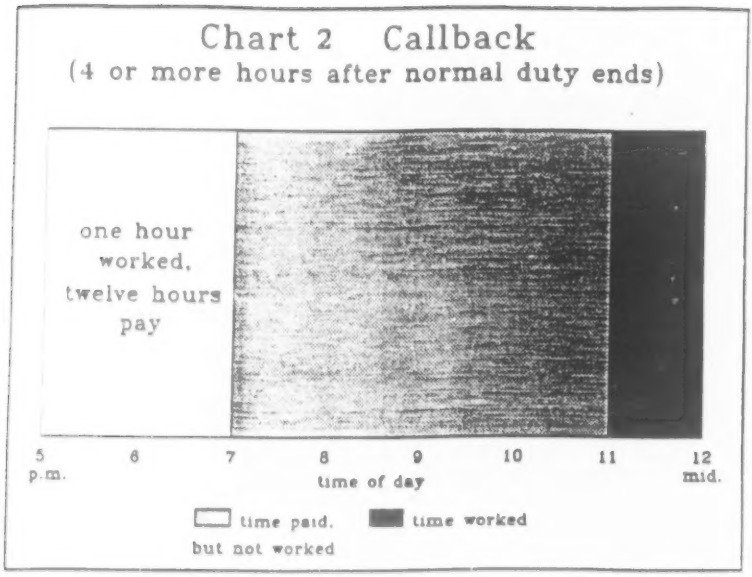
Duty which extends beyond the eight hours on a Sunday or holiday is compensated on the same basis as overtime service performed on a weekday night. Callback time is awarded to Customs inspectors on Sunday if they are called back to duty more than eight hours after the start of the first Sunday duty assignment.

Employees covered by the Federal Employees Pay Act of 1945, as amended, receive a Sunday overtime rate of time-and-one-half of their basic pay rate for hours actually worked if Sunday is not part of their normal work week. Overtime is paid at a rate of time-and-one quarter of an employee's basic pay rate for hours actually worked if Sunday is part of the employee's normal 40-hour week.

For work performed on a holiday which is not overtime, employees covered by FEPA receive double time. If overtime is worked on a holiday employees earn time-and-one half of their basic pay rate.

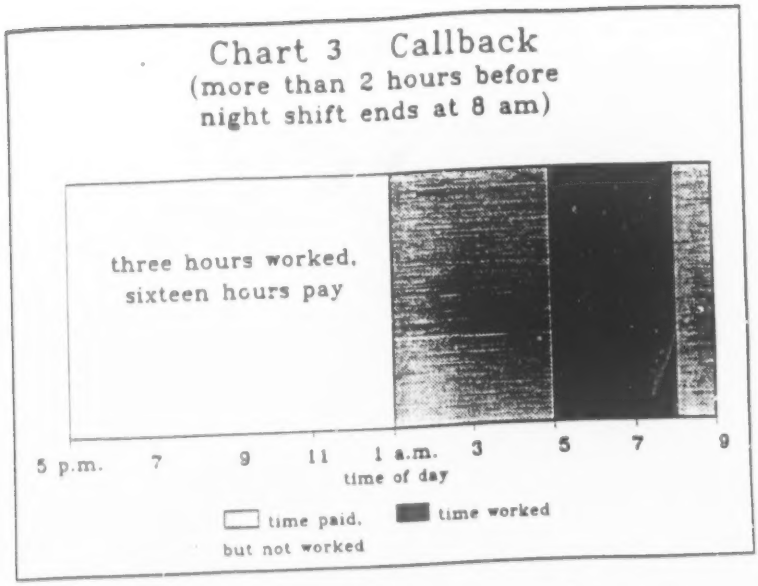
Under FEPA, employees cannot receive compensation which exceeds the maximum biweekly pay for GS-15, currently $3,072 a pay period.

SOURCE: Library of Congress, Congressional Research Service Report, June 10, 1991



Callback (4 or more hours after normal duty ends)

According to the regulations, if the inspector is called back four or more hours after his normal tour of duty ends (i.e. 9:00 p.m. or after) and before the beginning of the last two hours of the night (i.e. before 6:00 a.m.), he is compensated for the time of his service and is credited with four additional hours of compensable time (two periods). Chart 4 illustrates that an inspector who works one hour of overtime from 11:00 p.m. to 12 midnight earns one and one-half day's pay – 12 hours. That is, the compensable time can be said to start at 7:00 p.m. and the inspector is paid for the periods 7:00 p.m. to 9:00 p.m. and 9:00 p.m. to 11:00 p.m. plus the time actually worked, which is in the 11:00 p.m. to 1:00 a.m. time period. Each period is two hours. Inspectors are paid four hours for every two hours of work. Any fraction of the two hours which amounts to at least one hour is counted as two hours. Thus, the inspector earns four hours + four hours + four hours = twelve hours overtime pay.



Callback (more than 2 hours before night ends at 8:00 a.m.)

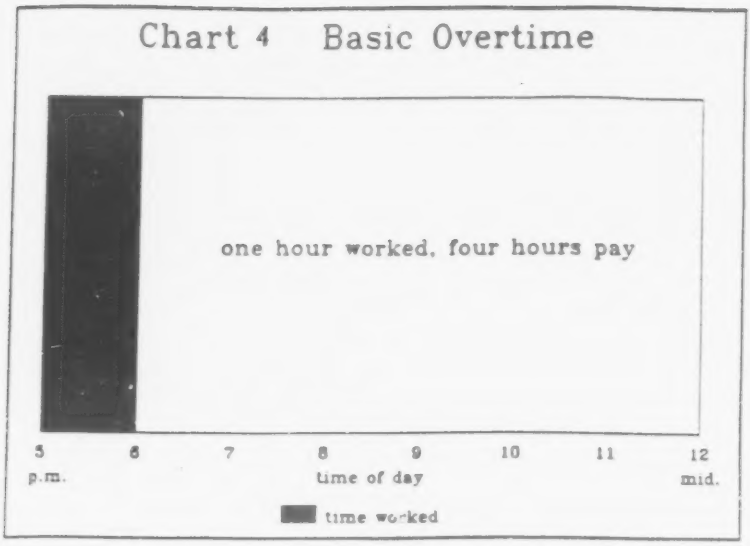
Customs regulations also provide that if the inspector is called back more than two hours before the end of the night (i.e. before 6:00 a.m. since night ends at 8:00 a.m.), he is, likewise, compensated for the time of his service and is credited with an additional four hours of compensable time (two periods). Chart five illustrates that an inspector who works from 5:00 a.m. to 8:00 a.m. earns two days pay – 16 hours. That is, the compensable time can be said to start at 1:00 a.m. and the inspector is paid for the periods 1:00 a.m. to 3:00 a.m. and 3:00 a.m. to 5:00 a.m. plus the time actually worked, which is in the 5:00 a.m. to 7:00 a.m. and 7:00 a.m. to 9:00 a.m. time periods. Each period is two hours. Inspectors are paid four hours for every two hours of work. Once the inspector works three hours he automatically gets credit for the whole period into which his work continues, in this case the 7:00 a.m. to 9:00 a.m. time period. Thus, the inspector earns four hours + four hours + four hours + four hours = sixteen hours overtime pay.

Employees covered by the Federal Employees Pay Act of 1945 who are called back to work receive overtime at a rate of time-and-one-half of their basic pay rate, with a minimum of two hours.

SELECTED OVERTIME POLICIES

	Customs	INS	Agriculture	Capitol Hill Police	FAA	FEPA
Weekday	4 hours for each 2 hour period; any fraction amounting to 1 hour equals 2 hours	4 hours for each 2 hour period; any fraction amounting to 1 hour equals 2 hours	1 1/2 with 2 hour minimum	1 1/2 for each hour worked; have to work 12 hours before overtime is paid	1 1/2 basic pay rate (limited to GS-10, Step 1)	1 1/2 basic pay rate (limited to GS-10, Step 1)
Sunday	16 hours, any amount of time worked	(If Sunday, not regularly scheduled day) 16 hours; must work 8 hours	Double-time	1 1/2 for each hour worked if not regularly scheduled day; up to 8 hours, rest is comp-time	1 1/2 if Sunday not part of work week	1 1/2 if not part of work week
Holiday	16 hours, any amount of time worked	(If Holiday, not regularly scheduled day) 16 hours; must work 8 hours	1 1/2 if not regularly scheduled day	1 1/2 for each hour worked if not regularly scheduled day; up to 8 hours, rest is comp-time	1 1/2 if Holiday not part of work week	1 1/2 if not regularly scheduled day
Callback	4 hours at double time, plus the time actually worked	2 hours at double time plus the time actually worked	commuted travel time allowance; average is 2 hours at 1 1/2	If called in on day off; 1 1/2 up to 8 hours, rest is comp-time (If called back to work after having left, get minimum of 3 hours comp-time	1 1/2 with a minimum of 2 hours	1 1/2 with a 2 hour minimum
Work Week	Monday - Saturday, 8:00 a.m. - 5:00 p.m. (Sunday excluded)	Monday - Sunday 7:00 a.m. - 6:00 p.m.	Most work 5-day weeks, Saturday part of work week, hours rarely by port (Sunday excluded)	Sunday - Saturday	Monday - Sunday 24 hours a day, 40 hours a week, 8 hours a day	40 hours a week, 8 hours a day

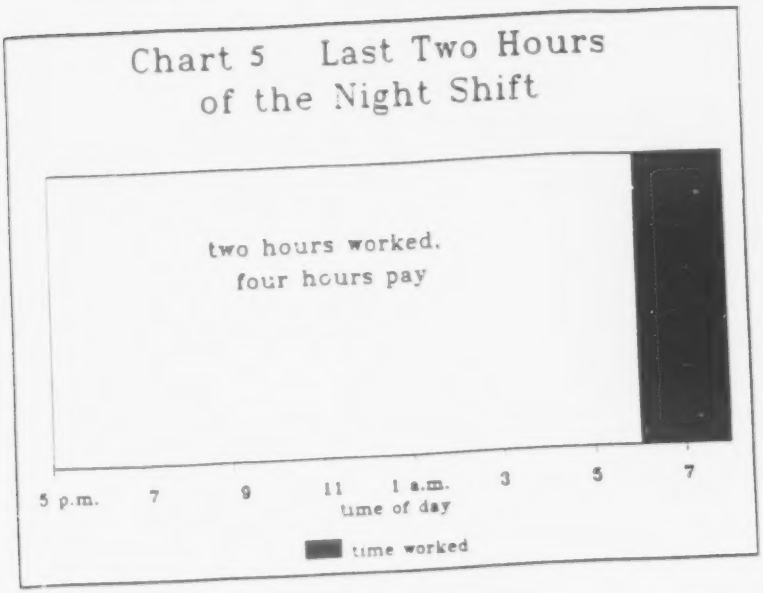
SOURCE: CRS Telephone conversations with each agency, June 12, 1991



Basic Overtime

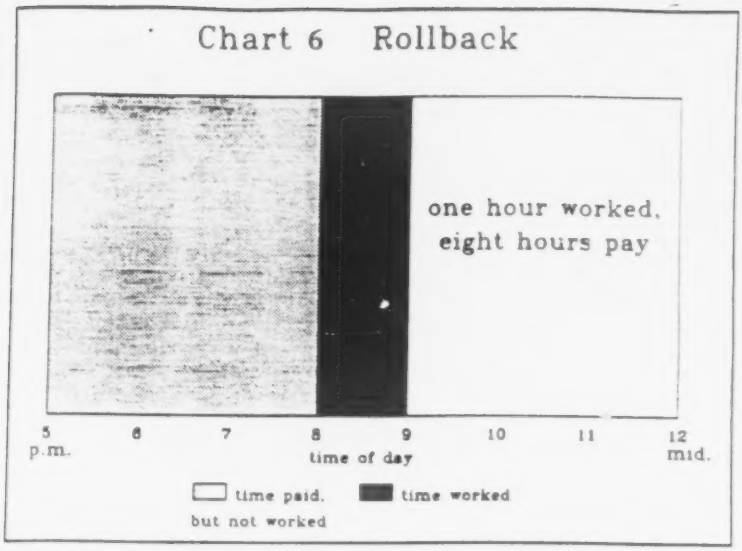
Overtime compensation for night duty during the week is paid at a rate of one-half of the gross daily rate that an inspector earns for each two hours of regular service. That is, they are paid at the rate which corresponds to one-half of eight hours--four hours, for every two hours of work. Inspectors are paid for minimum periods of time. Any fraction of the two hours which amounts to at least one hour is counted as two hours. Chart 1 illustrates that an inspector who works one hour of overtime from 5:00 p.m. to 6:00 p.m. earns one-half day's pay -- four hours.

Under the Federal Employees Pay Act (FEPA) of 1945, as amended, employees are usually paid for time actually worked in fifteen minute increments. Overtime for work in excess of eight hours in a day or forty hours in a week is paid at a rate of time-and-one-half of the employee's basic rate of pay, up to the pay rate corresponding to a GS-10, step 1. Currently this GS-10 rate is $28,322 and the overtime rate corresponding to it is $20.36 per hour. Employees whose salaries are at or above $28,322 receive an overtime pay rate of $20.36 per hour.



Last Two Hours of the Night

By regulation, an inspector who reports for duty two hours or less before the night ends at 8:00 a.m. (i.e. 6:00 a.m. to 8:00 a.m.) earns two hours of compensable time for any amount of time worked. Inspectors are paid four hours for every two hours of work. Chart 2 illustrates that an inspector who works two hours of overtime from 6:00 a.m. to 8:00 a.m. earns one-half day's overtime pay – four hours.



Rollback

U.S. Customs Service regulations also provide that an inspector who is called back to duty within the first four hours of the night after his normal tour of duty ends (i.e. up until 9:00 p.m.), be compensated for the period between the beginning of the night (5:00 p.m.) and the conclusion of the service. Chart 3 illustrates that an inspector who works one hour of overtime from 8:00 p.m. to 9:00 p.m. earns one day's pay – eight hours. That is, the compensable time starts at 5:00 p.m. and the inspector is paid for the periods 5:00 p.m. to 7:00 p.m. and 7:00 p.m. to 9:00 p.m. Each period is two hours. Inspectors are paid four hours for every two hours of work. Any fraction of the two hours which amounts to at least one hour is counted as two hours. Thus, the inspector earns four hours + four hours = eight hours overtime pay.

ATTACHMENT #5

DUPLICATE PAYMENT EXAMPLE: Two overlapping assignments and drawing regular pay

(Duplicate payment made for Tuesday, May 2, 1991)

Page 1 is a copy of the "Two Week Schedule" for the regular tour. It shows that the inspector was scheduled to work from 11 a.m. to 7 p.m.

Page 2 is a copy of the inspector's time and attendance card. It shows that he worked his scheduled tour which was from 11 a.m. to 7 p.m.

Page 3 is a page from a Customs printout showing that the inspector was paid for working two assignments on May 2, 1989, both assignments starting at 5 p.m and one ending at 6:35 p.m and the other ending at 6:45 p.m.

Page 4 is GAO's printout showing the duplicate overtime payments together.

ATTACHMENT #6

Overtime Pay Expensive for Hours Worked

Managing the scheduling of overtime work is important because 1911 Act overtime pay is expensive and is disproportionate to the number of hours actually worked. To illustrate this point, GAO selected a sample of 16 inspectors and compared time worked to time paid. For example, inspector one worked two overtime hours in fiscal year 1989. His overtime pay of $1,188.60 was based on 90 hours. The average length of his overtime assignments for the year was 14 minutes.

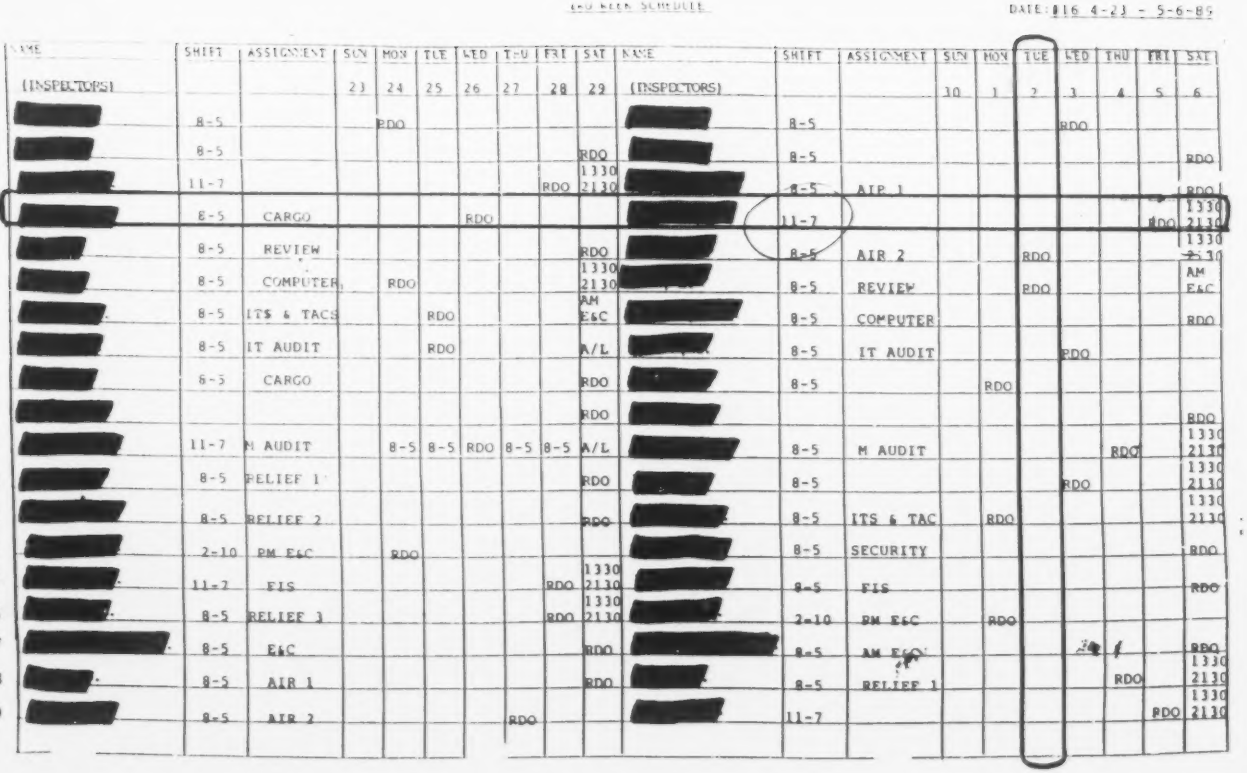
Comparison of Time Worked to Compensation for 16 Inspectors in Fiscal Year 1989

Inspector	Number of overtime assignments worked	Number of overtime hours compensated for	Number of overtime hours actually worked	Average assignment length[a]	Total overtime salary	Regular hourly pay rate	Effective overtime hourly pay rate
1	10	90	2	0:14	$1,188.60	$13.17	$509.40
2	41	557	261	6:22	3,603.60	6.47	13.81
3	41	334	96	2:20	4,880.40	14.61	50.84
4	24	378	177	7:22	7,624.72	20.19	43.08
5	32	437	60	1:52	8,053.20	17.26	134.26
6	43	691	328	7:37	9,790.56	14.17	29.86
7	144	1,218	471	3:16	9,830.60	8.07	20.88
8	74	917	209	2:49	14,614.96	15.94	69.96
9	91	954	139	1:32	16,467.08	17.26	118.65
10	187	2,113	755	4:02	19,908.40	9.42	26.37
11	187	1,319	172	0:55	20,431.36	15.49	118.90
12	252	1,787	151	0:36	20,920.88	11.71	138.37
13	65	1,022	391	6:01	21,270.80	20.82	54.44
14	258	1,662	189	0:44	23,100.80	13.90	122.03
15	201	2,709	1,157	5:45	24,299.72	8.97	21.00
16	228	1,488	133	0:35	24,379.00	16.38	183.37
	117[b]	1,105[b]	293[b]	3:30[b]	$14,376.48[b]	$13.99[b]	$103.45[b]

[a]In hours and minutes.

[b]Overall average for the 16 inspectors.

Source: GAO analysis of Customs data.



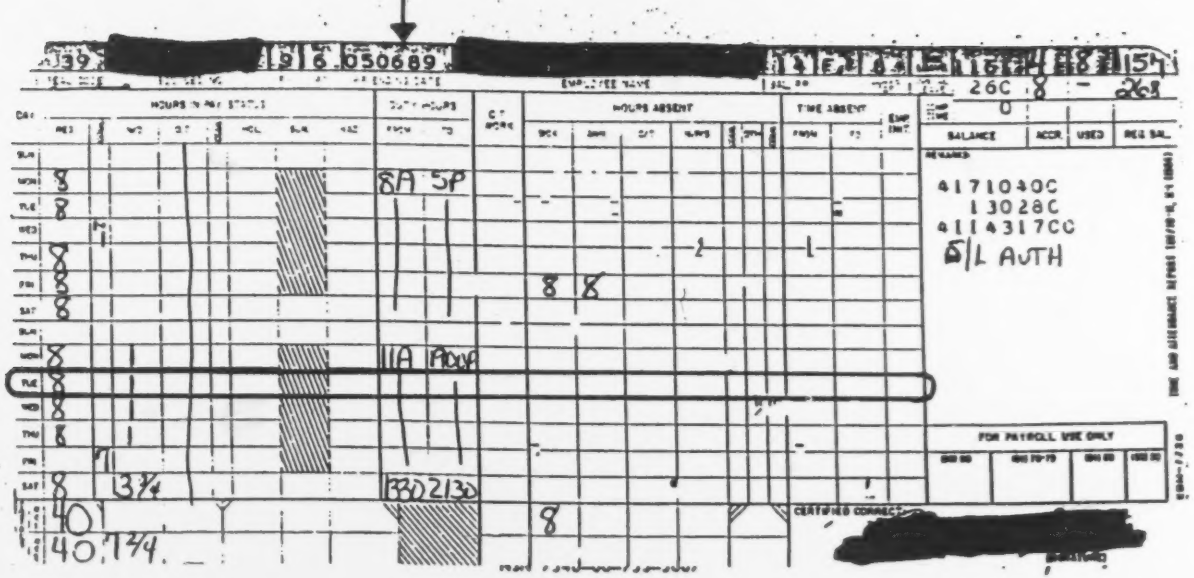
4-WEEK SCHEDULE

DATE: #16 4-23 - 5-6-89

	NAME	SHIFT	ASSIGNMENT	SUN	MON	TUE	WED	THU	FRI	SAT	NAME	SHIFT	ASSIGNMENT	SUN	MON	TUE	WED	THU	FRI	SAT
	(INSPECTORS)			23	24	25	26	27	28	29	(INSPECTORS)			30	1	2	3	4	5	6
1	[redacted]	8-5			RDO						[redacted]	8-5					RDO			
2	[redacted]	8-5								RDO	[redacted]	8-5								RDO
3	[redacted]	11-7							RDO	1330 2130	[redacted]	8-5	AIR 1							RDO
4	[redacted]	8-5	CARGO				RDO				[redacted]	11-7							RDO	1330 2130
5	[redacted]	8-5	REVIEW							RDO	[redacted]	8-5	AIR 2			RDO				1330 2130
6	[redacted]	8-5	COMPUTER		RDO					1330 2130	[redacted]	8-5	REVIEW			RDO				AM E&C
7	[redacted]	8-5	ITS & TAC			RDO				AM E&C	[redacted]	8-5	COMPUTER							RDO
8	[redacted]	8-5	IT AUDIT			RDO				A/L	[redacted]	8-5	IT AUDIT				RDO			
9	[redacted]	8-5	CARGO							RDO	[redacted]	8-5			RDO					
10	[redacted]									RDO	[redacted]									RDO
11	[redacted]	11-7	M AUDIT		8-5	8-5	RDO	8-5	8-5	A/L	[redacted]	8-5	M AUDIT					RDO		1330 2130
12	[redacted]	8-5	RELIEF 1							RDO	[redacted]	8-5					RDO			1330 2130
13	[redacted]	8-5	RELIEF 2							RDO	[redacted]	8-5	ITS & TAC		RDO					1330 2130
14	[redacted]	2-10	PM E&C		RDO						[redacted]	8-5	SECURITY							RDO
15	[redacted]	11-2	FIS						RDO	1330 2130	[redacted]	8-5	FIS							RDO
16	[redacted]	8-5	RELIEF 3						RDO	1330 2130	[redacted]	2-10	PM E&C		RDO					
17	[redacted]	8-5	E&C							RDO	[redacted]	8-5	AM E&C							RDO
18	[redacted]	8-5	AIR 1							RDO	[redacted]	8-5	RELIEF 1					RDO		1330 2130
19	[redacted]	8-5	AIR 2					RDO			[redacted]	11-7							RDO	1330 2130

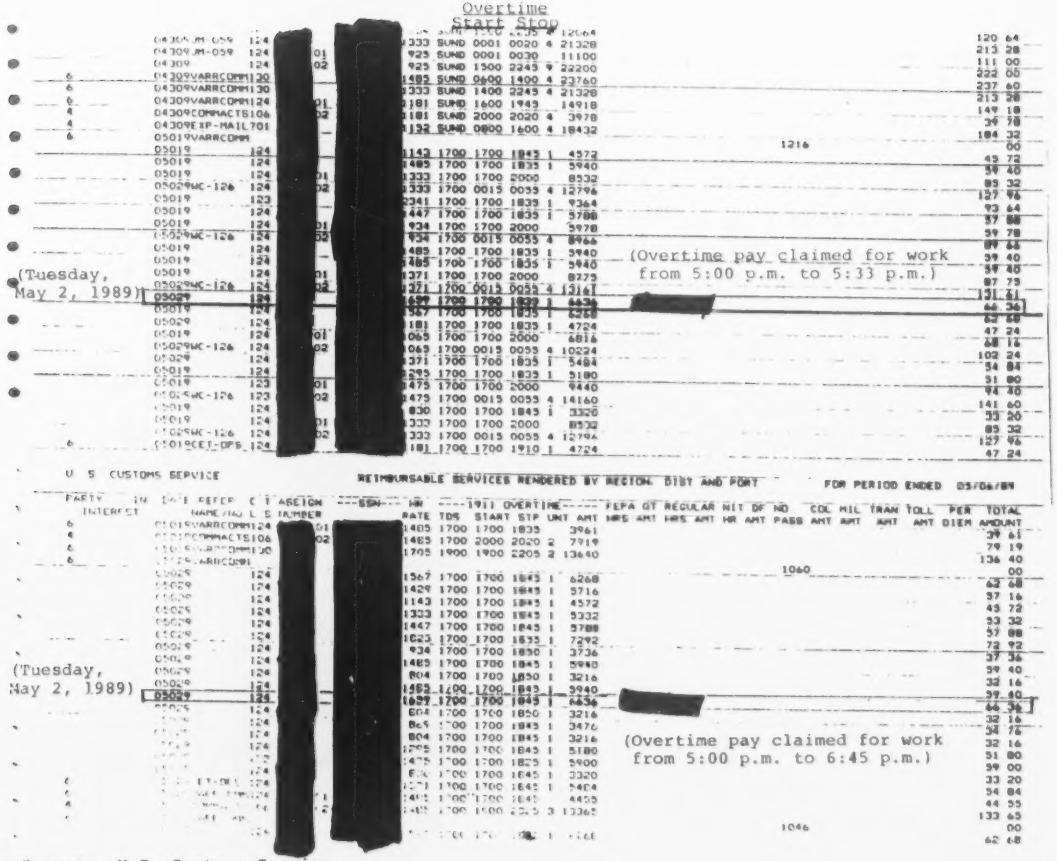
Source: U.S. Customs Service

(Period Ending 5/6/89)

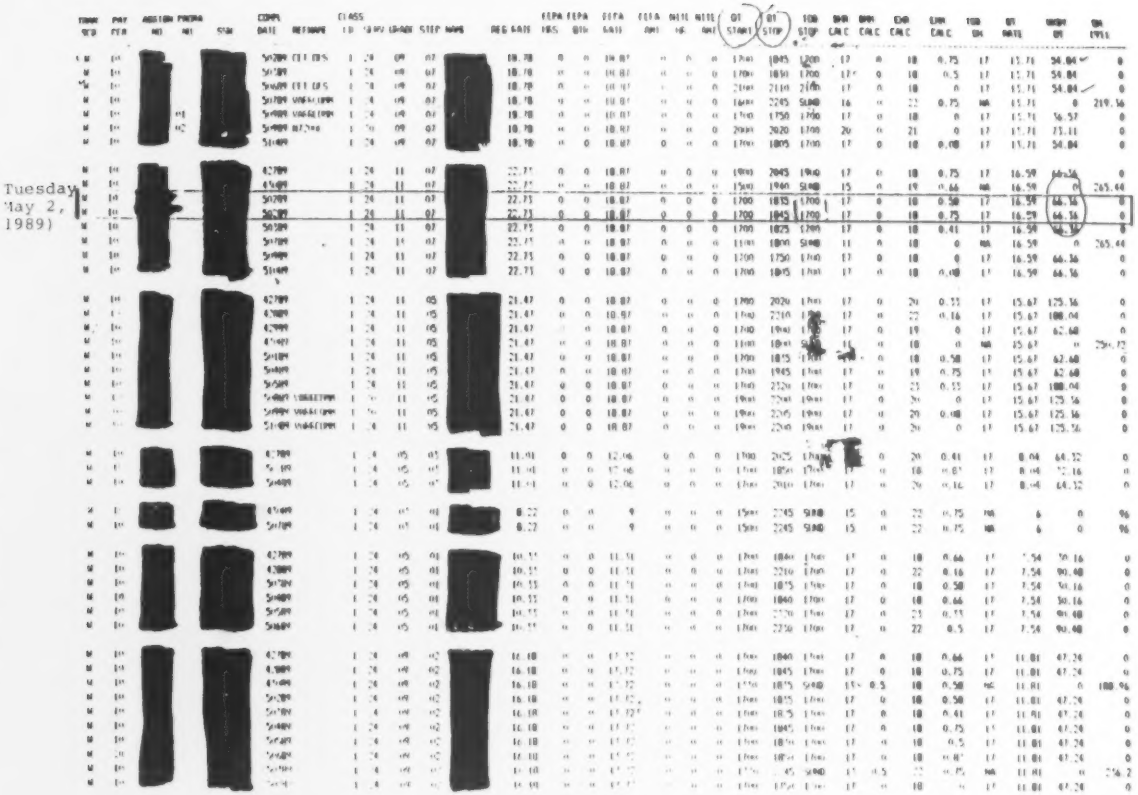


(Tuesday, May 2, 1989 worked regular shift from 11:00 a.m. to 7:00 p.m.)

Source: U.S. Customs Service


Overtime
Start Stop
(Tuesday, May 2, 1989)
(Overtime pay claimed for work from 5:00 p.m. to 5:33 p.m.)
U S CUSTOMS SERVICE
REIMBURSABLE SERVICES RENDERED BY REGION, DIST AND PORT
FOR PERIOD ENDED 05/06/89
(Tuesday, May 2, 1989)
(Overtime pay claimed for work from 5:00 p.m. to 6:45 p.m.)

Source: U.S. Customs Service



Tuesday
May 2,
1989)

Source: U.S. General Accounting Office Data Analysis

ATTACHMENT #9

TRAN CD	ASSIGN NO	PRORA NO	SSN	COMPL DATE	NAME	GRADE	STEP	CLASS CD	SERV	OT START	OT STOP	TOD STOP	OT RATE	1911 OT PAID
W	[redacted]		[redacted]	51289	[redacted]	09	06	1	24	1700	2310	1700	13.33	$159.96
W		02		51389		09	06	3	24	2115	2205	1700	13.33	$119.97
W		01		51389		09	06	1	24	1745	1950	1700	13.33	$39.99
W				51489		09	06	1	24	815	1550	SUND	13.33	$213.28
W		02		51589		09	06	3	24	2200	2230	1700	13.33	$95.97
W		01		51589		09	06	1	24	1700	2125	1700	13.33	$63.99
W				51589		09	06	1	24	715	730	1700	13.33	$53.32
W		01		51789		09	06	1	24	1815	1915	1700	13.33	$39.99
W		02		51789		09	06	3	24	2200	2240	1700	13.33	$119.97
W		01		51989		09	06	1	24	1700	2005	1700	13.33	$63.99
W		02		51989		09	06	3	24	2200	2240	1700	13.33	$95.97
W		02		52389		09	06	3	24	2115	2200	1700	13.33	$119.97
W		01		52389		09	06	1	24	1820	1930	1700	13.33	$39.99
														$1,226.36
W				51289		12	04	1	23	1700	1953	1700	18.23	$72.92
W				51389		12	04	3	23	2200	2225	1700	18.23	$218.76
W				51489		12	04	1	23	815	1600	SUND	18.23	$291.68
W		02		51589		12	04	3	23	2200	2230	1700	18.23	$131.25
W		01		51589		12	04	1	23	1700	2130	1700	18.23	$87.51
W				51789		12	04	3	23	2200	2240	1700	18.23	$218.76
W		01		52289		12	04	1	23	1700	2000	1700	18.23	$87.51
A				52289		13	00	1	23	NA	NA		0	$111.72
W		02		52289		12	04	3	23	2115	2200	1700	18.23	$131.25
W				52489		12	04	3	23	2145	2220	1700	18.23	$218.76
														$1,570.12
W		01		51189		07	01	1	24	1830	1930	1700	9.34	$28.02
W		02		51189		07	01	3	24	2115	2215	1700	9.34	$84.06
W				51489		07	01	1	24	815	1545	SUND	9.34	$149.44
W		02		51689		07	01	2	24	1945	1955	1700	9.34	$37.36
W		01		51689		07	01	1	48	1820	1850	1700	9.34	$18.68
W		03		51689		07	01	3	24	2200	2235	1700	9.34	$56.04
W		01		52489		07	01	1	24	1830	1935	1700	9.34	$28.02
W		02		52489		07	01	3	24	2145	2220	1700	9.34	$84.06
														$465.68
W				51289		09	10	3	24	1915	2015	1700	14.85	$118.80
W				51489		09	10	1	42	800	1600	SUND	14.85	$237.60
W		01		51689		09	10	1	42	1800	1930	1700	14.85	$44.55
W		02		51689		09	10	1	24	2115	2200	1700	14.85	$133.65
W		01		51989		09	10	1	42	1820	1900	1700	14.85	$44.55
W		02		51989		09	10	1	24	2115	2215	1700	14.85	$133.65
W				52189		09	10	1	24	815	1500	SUND	14.85	$237.60
W		01		52389		09	10	1	48	1820	1830	1700	14.85	$44.55
W		02		52389		09	10	3	24	2115	2200	1700	14.85	$133.65
														$1,128.60

SOURCE: GAO analysis of Customs data

ATTACHMENT #10

TRAN CD	ASSIGN NO	PRORA NO	SSN	COMPL DATE	NAME	GRADE	STEP	CLASS CD	SERV	OT START	OT STOP	TOD STOP	OT RATE	1911 OT PAID
W	[redacted]		[redacted]	43089	[redacted]	11	05	1	24	1	20	SUND	15.67	$250.72
W				43089		09	01	1	24	1100	1800	SUND	11.43	$182.88
W		01		43089		09	10	1	24	1	20	SUND	14.85	$237.60
W		02		43089		09	10	1	24	1330	1840	SUND	14.85	$297.00
W				43089		07	01	1	24	1100	1830	SUND	9.34	$149.44
W				43089		09	09	1	24	1330	1830	SUND	14.47	$231.52
W				43089		09	02	1	24	1100	1800	SUND	11.81	$188.96
W				43089		03	01	1	24	1100	1800	SUND	6	$96.00
W		01		43089		09	10	1	24	1	20	SUND	14.85	$237.60
W		02		43089		09	10	1	24	1330	1840	SUND	14.85	$297.00
W				43089		09	01	1	24	1500	2235	SUND	11.43	$182.88
W				43089		09	10	1	24	1500	2235	SUND	14.85	$237.60
W				43089		11	07	1	24	1500	1940	SUND	16.59	$265.44
W				43089		11	05	1	24	1100	1800	SUND	15.67	$250.72
W				43089		03	01	1	24	1500	2245	SUND	6	$96.00
W				43089		09	02	1	24	1330	1835	SUND	11.81	$188.96
W				43089		11	08	1	24	1500	1940	SUND	17.05	$272.80
W				43089		09	07	1	24	1100	1800	SUND	13.71	$219.36
W				43089		09	10	1	24	1330	1835	SUND	14.85	$237.60
W		01		43089		12	04	1	23	1	30	SUND	18.23	$218.76
W		02		43089		12	04	1	23	1500	2245	SUND	18.23	$437.52
W				43089		09	05	1	24	1330	1835	SUND	12.95	$207.20
W				43089		11	03	1	23	1100	1800	SUND	14.75	$236.00
W		01		43089		05	04	1	24	1	25	SUND	8.3	$99.60
W		02		43089		05	04	1	24	1500	2235	SUND	8.3	$199.20
W				43089		07	02	1	24	1500	2230	SUND	9.34	$149.44
W				43089		05	01	1	24	1500	2235	SUND	7.54	$120.64
W				43089		09	06	1	24	1	20	SUND	13.33	$213.28
W		01		43089		06	04	1	24	1	30	SUND	9.25	$111.00
W		02		43089		06	04	1	24	1500	2245	SUND	9.25	$222.00

SOURCE: GAO anaylsis of Customs data

NOTE: Five of the seven inspectors worked another assignment (indicated by the "02") later that same Sunday. Each of the five inspectors were paid for an additional eight hours.

ATTACHMENT #11

Examples of 1911 Act Sunday/Holiday Rates' Impact on Pay

Day	Regular pay per hour	Minutes worked	Overtime paid: Actual pay[a]	Overtime paid: Effective hourly rate[b]
Sunday	$15.67	19	$250.72	$791.76
Sunday	10.98	19	175.68	554.79
Holiday	15.94	30	255.04	510.08
Sunday	12.44	20	199.04	597.18
Sunday	21.02	45	336.32	448.43

[a]Calculated by multiplying regular pay per hour times 16 hours.

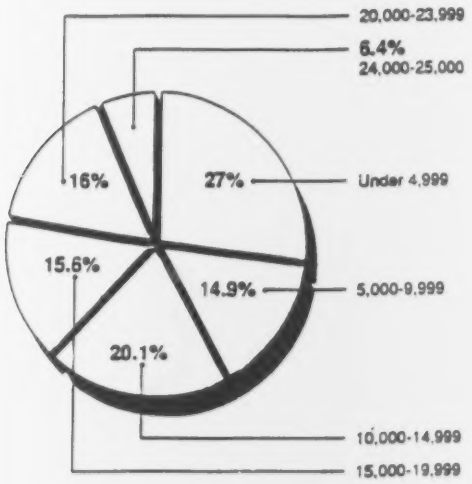
[b]Calculated by converting minutes worked to percentage of an hour and dividing actual amount paid by that percentage.

Given the strong pay advantages these rates give to Customs inspectors, the provisions of the law governing Sunday hinder the implementation of the provisions in OBRA that encouraged Customs to establish shifts and staggered work hours so that more of the workload can be covered by regular work time rather than overtime. Customs officials believe they have the authority to establish shifts or staggered hours covering Sundays. However, under the 1911 Act, provisions specifying that 2 days pay is required for Sunday work would still apply; thus, cost savings would not result.

Source: GAO analysis of Customs data.

ATTACHMENT #12

Percent of Workforce Earnings Overtime by Overtime Salary Range in Fiscal Year 1989



GAO also analyzed overtime pay in fiscal year 1989 to determine the range of individual inspector earnings. As indicated above, 16 percent of those working 1911 Act overtime earned from $20,000 to 23,999 during fiscal year 1989, and another 6 percent earned between $24,000 and $25,000 per year. GAO found that no one exceeded the overtime cap. Earnings shown below include overtime work by part-time employees, secretaries, and any other employees receiving 1911 Act overtime pay.

Source: GAO analysis of Customs data.

ATTACHMENT #7

Fiscal Year 1989

All "H" and "A" Cards for Selected SSNs

SSN	ASSIGNO	PRORANO	TRANSCD	COMPL DT	TOD STOP	OT START	OT STOP	MIN	OT RATE	MKDYOT	SHIFT	TOTAMT	CLASS CD	TYP SERV	SERIES
[redacted]	[redacted]	08	H	08/20/89	SUND	1800	1830	30	016.13	00.00	087.10	087.10	3	24	01890
			H	08/21/89	1700	0230	0445	135	016.13	0193.56	00.00	0193.56	1	23	01890
			H	08/25/89	1700	2330	0130	120	016.13	0193.56	00.00	0193.56	1	23	01890
			H	08/27/89	SUND	2000	2200	120	016.13	00.00	0258.00	0258.00	1	23	01890
			H	08/31/89	1700	0700	0745	45	016.13	064.52	00.00	064.52	3	24	01890
			H	08/31/89	1700	2030	2315	165	016.13	0193.56	00.00	0193.56	1	23	01890
			H	09/03/89	SUND	2000	2315	195	016.13	00.00	0258.00	0258.00	1	23	01890
		01	H	09/06/89	1700	2045	2115	30	016.13	077.43	00.00	077.43	1	05	01890
		02	H	09/06/89	1700	2130	2330	120	016.13	0116.13	00.00	0116.13	3	41	01890
			H	09/07/89	1700	2000	2230	150	016.13	0193.56	00.00	0193.56	1	23	01890
		01	H	09/11/89	1700	2000	2045	45	016.13	077.43	00.00	077.43	1	63	01890
		02	H	09/11/89	1700	2230	2300	30	016.13	0116.13	00.00	0116.13	2	05	01890
			H	09/13/89	1700	1715	1745	30	016.13	064.52	00.00	064.52	2	05	01890
			H	09/15/89	1700	0615	0700	45	016.13	064.52	00.00	064.52	3	46	01890
			H	09/20/89	1700	0530	0700	90	016.13	0193.56	00.00	0193.56	7	52	01890
			H	09/29/89	1700	0345	0500	75	016.13	0193.56	00.00	0193.56	3	46	01890
		01	H	09/30/89	1700	2330	2400	30	016.13	0161.31	00.00	0161.31	1	24	01890
		02	H	09/30/89	1700	0545	0645	60	016.13	0161.29	00.00	0161.29	3	46	01890
			H	12/24/88	1700	1715	1800	45	015.49	061.96	00.00	061.96	7	49	01890
								10,310		015,168.68	05,262.68	020,431.36			
	N= 187														
[redacted]	[redacted]		H	10/09/88	1700	1900	1915	15	012.81	0102.48	00.00	0102.48	3	83	01897
			H	10/11/88	1700	2230	2250	20	012.81	0153.72	00.00	0153.72	3	85	01897
			H	10/12/88	1700	2000	2015	15	012.81	0102.48	00.00	0102.48	3	83	01897
			H	10/14/88	1700	1900	1910	10	012.81	0102.48	00.00	0102.48	3	81	01897
		01	H	10/16/88	SUND	1000	1010	10	012.81	00.00	0102.48	0102.48	3	83	01897
		02	H	10/16/88	SUND	1600	1615	15	012.81	00.00	0102.48	0102.48	3	85	01897
			H	10/17/88	1700	1830	1845	15	012.81	051.24	00.00	051.24	3	81	01897
			H	10/18/88	1700	1940	1950	10	012.81	0102.48	00.00	0102.48	3	81	01897
			H	11/11/88	HOLI	1040	1100	20	013.17	00.00	0210.72	0210.72	3	85	01897
			H	11/20/88	1700	2230	2240	10	015.17	0158.04	00.00	0158.04	3	30	01897
								140		0772.92	0415.68	01,188.60			
	N= 10														
[redacted]	[redacted]		H	10/30/88	SUND	0130	0520	230	017.26	00.00	0276.16	0276.16	3	33	01801
			H	12/10/88	1700	2100	2320	140	017.26	0207.12	00.00	0207.12	3	46	01801
			H	12/15/88	1700	0500	0510	10	017.26	0207.12	00.00	0207.12	3	64	01801
			H	12/16/88	1700	0130	0250	80	017.26	0207.12	00.00	0207.12	3	46	01801
		01	H	12/18/88	1700	2215	2400	105	017.26	069.04	00.00	069.04	7	46	01801
		02	H	12/18/88	SUND	0001	0110	69	017.26	00.00	0276.16	0276.16	7	46	01801
			H	12/20/88	1700	2100	2130	30	017.26	0207.12	00.00	0207.12	3	83	01801
			H	12/31/88	1700	2010	2125	75	017.26	0130.08	00.00	0130.08	3	82	01801

Source: GAO analysis of Customs data.

ATTACHMENT #8

RP 41703 HCS-AA6440
U.S. CUSTOMS

1911 OVERTIME EARNING REPORT FOR PERIOD ENDING 11/18/89

NAME	SSN	DIST	PORT	ASSIGN. NUMBER	REFER. NO./NAME	DATE COMPLETE	1911 RATE	1911 STRT	1911 STOP	TOUR STOP	EMPLOYEE AMOUNT
[redacted]	[redacted]	17	03	[redacted]	COMMACTS	110589	13.33	1000	1030	SUND	$213.28
		17	03		GULFSPIR	110989	13.33	2030	2100	1700	$106.64
		17	03		COMMACTS	111189	13.33	2130	2230	1700	$159.96
		17	03		COMMACTS	111289	13.33	2200	2230	SUND	$213.28
		17	03		AMERICAN	111489	13.33	2100	2150	1700	$159.96
		17	03		COMMACTS	111889	13.33	1705	1730	1700	$53.32
										EMPLOYEE TOTAL	$906.44

Atlanta District

Source: U.S. Customs Service